

MINUTES OF THE
CURRENT USE BOARD

Approved as Written

DATE: October 28, 2013

TIME: 10:35 a.m.

LOCATION: Department of Revenue Administration, 109 Pleasant Street, Concord

BOARD MEMBERS:

Senator David Pierce ~ *Absent*
Stephan Hamilton, NHDRA, Chairman
Gail McWilliam Jellie (*for*
Lorraine Merrill), NH Dept. of Agriculture
Carol Andrews, NHACC
Tom Mullin, Assessing Official, City
Gary Karp, Assessing Official, Population <5,000
Tom Thomson, Public Member

Representative Janet Wall ~ *Absent*
Jon Wraith, UNH Life Science & Agriculture ~ *Absent*
Susan Francher, NHDRED, Forests and Lands

Lindsay Webb, NH Fish & Game
Scott Bartlett, Assessing Official, Population >5,000
David Tellman, Public Member, Forest Land
Chuck Souther, Public Member, Farm Land ~ *Absent*

MEMBERS of the PUBLIC:

Mary Pinkham-Langer, NHDRA
Linda Kennedy, NHDRA
Tim O'Connell, SPACE

Catherine Capron, NHDRA
Jasen Stock, NHTOA
Robert Johnson II, NH Farm Bureau

Chairman Hamilton convened the meeting at 9:00 a.m.

Introductions.

Chairman Hamilton briefly explained the annual process of establishing the proposed ranges of value, the scheduling of three public forums to receive input from the public and the rulemaking process through the Joint Legislative Committee on Administrative Rules (JLCAR).

DRA Commissioner John Beardmore

Commissioner Beardmore introduced himself to the board and gave a brief summary of his background. He expressed his commitment to fairness and welcomed comments and feedback from the board members. Mr. Thomson expressed appreciation for the department's service and assistance to the taxpayers and this board over the years.

Minutes

Ms. Webb *motioned to accept the minutes of the November 16, 2012, meeting as written*. Ms. Francher *seconded the motion*. No discussion. Chairman Hamilton called the motion to accept the minutes of November 16, 2012, as written. *All approved*.

The minutes of January 16, 2013, were not distributed however Mr. Bartlett requested a correction to the minutes. Pertaining to the motions for the proposed assessment ranges for forest land and forest land with documented stewardship, Mr. Bartlett abstained from both votes due to not having had the opportunity to see and understand how the assessments were derived from the model.

Forestry Subcommittee Report

Ms. Francher reported that 100% of the new model was used this year after having been gradually transitioned to over the past five years and summarized the information distributed. She restated the concern of the decreasing delta between the assessments for the forest land and documented stewardship categories which lessens the incentive to create a management plan. The inability to collect sufficient, accurate and reliable expense data to be used in the model has been a constant concern and frustration. In an effort to recognize the additional cost of having land in documented stewardship without the use of deficient expense data, the subcommittee proposed assigning a percentage adjustment of 35% for documented stewardship, similar to the 20% recreation adjustment. There has also been concern heard about the decreasing assessments for the documented stewardship, wetland and unproductive categories.

Chairman Hamilton stated there is a very limited pool of expense data provided to calculate predictable and reliable model outputs. This limited pool of data is then divided into two categories within the model, forest land and documented stewardship, which limits the data even more and causes a negative impact on the already unreliable and unpredictable outputs. Additionally, there is a magnifying effect due to using a dollar per acre value versus a percentage, a relationship to the value or income of the land which may overemphasize the lower ranges of value.

Ms. Andrews stated she is in favor of discontinuing the effort to collect the expense data due to the inability to collect meaningful data. She is in favor of trying to find a percentage that will encourage and incentivize good stewardship practices.

Mr. Thomson stated he does not agree the data received is unreliable only that there is not enough data collected to provide meaningful outputs. The question has been asked before, how do we get more data? He expressed concern that if the difference between the forest land and documented stewardship categories is not significant enough, people will choose not to manage their land in a sustainable manner. Owners in documented stewardship are also facing additional costs and requirements to qualify for programs such as the national tree farm program.

Ms. Francher posed the question of how do you create a significant difference between low values such as \$20 or \$30 and whether or not those few extra dollars saved would be worth the effort to manage?

Mr. Thomson added using the tree farm program as an example, what was promised was if landowners did all that was required of the program, they would receive more money for their wood products. That has not happened and at this time there does not appear to be a benefit nor does there appear to be a benefit in the future. It is difficult to get rid of wood products today.

Mr. Bartlett restated his concern for the lack of documentation available about the model in order to understand how the assessment ranges were established. Chairman Hamilton explained there have been presentations made throughout the implementation of the new model over the past few years including the information used to generate the assessment ranges. Most of the work is done at the subcommittee level, which meets several times per year prior to the first meeting of the full board. Mr. Thomson added the implementation of the new model has been the most transparent formula we have had. It went through the process of being explained to this full board and the public at public forums and Mr. Dickman has been willing to go further than that as requested. Mr. Bartlett and Mr. Mullin requested to be on the forestry subcommittee going forward and they along with Mr. Karp requested an opportunity to view the model with Mr. Dickman.

Mr. Bartlett inquired as to why a USPAP (Uniform Standards of Professional Appraisal Practices) compliant report was not generated to explain how these values were established as they are being used for property tax purposes? Chairman Hamilton explained that has historically not been the process for the current use board due to having to go through the rulemaking process and the JLCAR (Joint Legislative Committee on Administrative Rules). The values adopted begin with the output of the valuation model, and then move into public exposure through the three public forums held throughout the State to receive public input, and then the board, based on evidence collected, makes a determination to move into rulemaking with the proposed ranges, where the JLCAR adopts the ranges into law through rules. It is ultimately the legislature who establishes the values.

Ms. Webb asked why 35% and whether or not lower and/or higher percentages were considered.

Ms. Francher responded higher percentages were not considered. The 35%, which is approximately 1/3 came from Mr. Johnson who offered an example of a landowner with a hayfield and the common distribution. The law requires the board to recognize increased costs of having land in documented stewardship however it does not provide any instruction on how to recognize them. The board has tried using expense data; the best response out of 80,000 private forest landowners in the State, those in current use, has been 12. Again while this is great information from a few, it is not representative of all forest land owners in the State, where the various categories of wood and number of acres vary, and their expenses. A request went out to 200 consulting foresters about management costs and we received one response. It has been a very difficult body of data to collect. The subcommittee, in an effort to remove some of that unreliability, is trying to find a way to recognize documented stewardship without deficient expense data being compounded into that portion of the model.

Mr. Hamilton added the biggest problem appears to be that a high ratio of landowners who have land in the unmanaged all other category have very low if any annual expense. Therefore, the problem may not be the bottom level is too low but the top end may not be high enough. In an effort to address the concerns of the communities that the bottom end is too low, the subcommittee felt until a more significant amount of expense information can be collected and analyzed, to stop the practice of dividing a small pool of data into smaller pools, to preserve the information that has been collected and use a percentage to hold the top and bottom values apart.

Ms. Andrews stated the subcommittee's intent was to find a place to start a conversation with the public; to see whether or not this process makes sense to them. Once we hear from them, the board can discuss and determine what we believe rates should be.

On another point, there is a lot to learn as a new member to this board. She suggested an orientation that would explain the purpose of the board and the model to gain an understanding of what is going on in order to make informed, responsible decisions.

Mr. Dickman clarified the recommendation being proposed is less associated with information captured in the field and more of a policy decision. Despite the best efforts year in and year out to obtain information we credibly need, we are looking for guidance from the public and the board.

Ms. Francher stated that although the subcommittee recommended an adjustment of 35%, the board could ask Mr. Dickman to develop output that includes higher and lower percentages to take to the public forums.

Mr. Thomson stated when the communities say the rates are too low; they are not taking into consideration the timber taxes they receive. The timber tax generates thousands of dollars for communities. Landowners in current use open and share their land with the State as well as the public. Multiple free activities are allowed on these lands such as snowmobiling, hunting, fishing and hiking which provides a great public and State benefit. There is a lot that goes into this big picture and current use is the glue that keeps this green space open in the State.

Jasen Stock, Executive Director of the NHTOA (New Hampshire Timber Owners Association), began by stating the NHTOA has been involved with new model from the development of the architecture and the input and every year there has been a nuance to be worked out and this year it is the documented stewardship. The organization has reviewed the model and the proposed rates and has some concern moving to a straight percentage. The model does a good job of taking out any subjectivity because it is based on data and statistics that create confidence. The number that has been used in the model to represent the difference between documented stewardship and forestland is \$1.50, which represents the additional costs a landowner would incur to qualify for documented stewardship. Putting that \$1.50 per acre against smaller assessments versus larger assessments, the results are magnified proportionately. In theory, no matter what type of wood is on the property, the costs should be the same all else being equal. A management plan is prepared for a property and not based on tree type. The struggle we have moving to a percentage, is that you are taking a percent of a total number which causes the management costs per acre to differ based on the three categories rather than being the same. There should not be a spread and variability there.

The income-producing capability of a piece of land, if managing it for timber, is based on what the mill or logger is going to pay for the stumpage. To reiterate the NHTOA's concern, the stumpage rates have decreased and although the model looks at a five-year rolling average, the board is considering a policy decision versus a data driven decision which again provides an objective view of what that income-producing capability of the land is.

Another concern is the erosion of the economic incentive of whether or not to develop a management plan. Mr. Stock explained the second handout illustrating an example of what an economic incentive would translate to assuming a 100 acre parcel for 10 years. With the increasing costs and requirements of tree farm programs, and an average management plan costing between \$1,500 and \$2,000, there is a significantly less economic incentive. The responsibility of the Current Use Board is to strike that balance of how much of an incentive to provide. Right now, the cost to hire a forester to do a management plan is greater than the incentive.

Mr. Stock also recognized the challenge of getting management costs. One reason is that many landowners do not know or have that data readily available. He did offer the idea of using a sampling versus a survey.

Another concern, when looking at the unproductive land, we are looking at an assessment increase from \$10 to \$19. In theory, there is little to no income-producing capability from that parcel and to increase the percentage on that category versus the all other category, there is a little bit of disconnect being pegged at the lowest assessed value.

Mr. Thomson suggested the board consider a sampling program and possibly offer credits for the licensed foresters to encourage participation. This could provide valuable information the board could fall back on to provide justification to the legislature.

Chairman Hamilton stated that it is important to remember that with the tax burden being so low per acre for the properties in the low end of the ranges, there is no way to make a dollar for dollar incentive. There needs to be recognition by property owners that there are additional costs to be a better steward of their land. That does not mean, however, that we cannot create an incentive.

Mr. Thomson *motioned to use the output from the model with a 40% adjustment as a basis for the establishment of the forest land category to present at the public forums*. Ms. Francher *seconded the motion*.

Ms. Francher asked to modify the motion *to include in the documentation to be provided at the public forums a documented stewardship range that is 40% at the midpoint of the forest land ranges using the expense model output with a low and high of each of the categories plus or minus 20%*. Mr. Thomson consented.

Chairman Hamilton called the motion of establishing the ranges for forest land assessment at the model output and the stewardship range at 40% less than the midpoint of the forestland output and to establish the ranges at plus or minus 20%. *Mr. Mullin opposed. All others approved.*

2014 Proposed Rules

Cub 304.07 Assessment Ranges for Forest Land Categories. The assessment ranges for forest land categories without documented stewardship shall be as follows:

- (a) The category of white pine shall [~~\$118 to \$177~~] **\$105 to \$158** per acre;
- (b) The category of hardwood shall be [~~\$43 to \$65~~] **\$40 to \$61** per acre; and
- (c) The category of all other shall be [~~\$31 to \$47~~] **\$30 to \$45** per acre.

Cub 304.08 Assessment Ranges for Forest Land Categories with Documented Stewardship. The assessment ranges for forest land categories with documented stewardship shall be as follows:

- (a) The category of white pine shall be [~~\$87 to \$131~~] **\$63 to \$95** per acre;

(b) The category of hardwood shall be [~~\$21 to \$32~~] **\$24 to \$36** per acre; and

(c) The category of all other shall be [~~\$10 to \$15~~] **\$18 to \$27** per acre.

Ms. Francher requested Mr. Dickman provide a handout to be distributed at the public meetings that show model outputs that include 30%, 35% and 45% as well as 40% so the public has the opportunity to look at a range of outputs. The board was in agreement. Chairman Hamilton stated a handout showing a range between 30% and 50%, every 5% inclusive, would be provided at the public forums.

Farm Land Assessment Range

Chairman Hamilton reported the farmland assessment calculations were not completed due to unpredicted circumstances; however the preliminary indication from Commissioner Merrill was that they remained unchanged from last year.

Ms. McWilliam Jellie, sitting in for Commissioner Merrill, stated the Commissioner's recommendation was that the farm land rates of \$25-\$425 per acre remain the same as last year. In addition, forest land owners have the option to request that their land be assessed within the farm land ranges in accordance with the Soil Potential Index requirement. Mr. Bartlett, Mr. Mullin and Mr. Karp requested a meeting with UNH to review the farmland model.

Ms. Francher ***motioned that the agricultural rates for current use at \$25 per acre to \$425 per acre remain the same as last year.*** Ms. Andrews ***seconded the motion.*** No further discussion. Chairman Hamilton called the motion. ***All Approved.***

Unproductive and Wetland

Chairman Hamilton stated in order to be consistent with the law, the rules for the assessment value of the unproductive and wetland categories will need to be changed to the lowest range of any forest land category.

Cub 304.13 Assessment Range for Unproductive Land. The assessment for unproductive land shall be \$[~~40~~]**18** per acre.

Cub 304.14 Assessment Range for Wetland. The assessment for wetland shall be \$[~~40~~]**18** per acre.

Fall Public Forum Dates (Pending location approval)

Tuesday, November 12, 2013 at 5:00 p.m. - Lancaster NH, North Country Resource Center

Monday, November 18, 2013 at 6:00 p.m. – Keene NH (*Location to be determined*)

Friday, November 22, 2013 at 9:00 a.m. – Concord NH, 109 Pleasant Street (*immediately followed by a Regular Meeting of the Board*)

Other Business

A brief discussion took place as to whether or not there would be a benefit to create a separate category for woodchips/fuel chips. Ms. Francher offered to take this topic under consideration at the forestry subcommittee.

Current Use Recordkeeping

Chairman Hamilton stated he was asked by the Assessing Standards Board (ASB) to bring the following subject to the Current Use Board. Referencing the handout of results developed by Mr. Jim Michaud, Assessor in Hudson, the handout highlights the results in the area of current-use record-keeping which is one of the areas reviewed by the DRA in every municipality within the State every five-years through the Assessment Review program.

The DRA reviews the current use records of a municipality to make sure the records are kept in an organized manner and can be retrieved by assessors as well as the public. One common theme that has developed is the conflict between records that exist now for some of the earlier properties that came into the current use program and what is now required for a valid application into current use.

There are several issues contributing to this non-compliance, in particular within the smaller communities but existing in the larger communities as well, including missing or incomplete documents, not having a full-time assessor or someone qualified to do the required work including recreating the tax maps, not enough time, staff or money, and the lack of enforcement for municipalities if a landowner refuses or does not respond to a request to submit or in some cases re-submit a tax map.

Chairman Hamilton stated that the ASB has revised the requirement and the results presented are based on the old requirement which illustrate the difficult task faced by the communities. The revision will take place this year so at this time there is no way to predict what the results will be going forward. While there is no monetary penalty for a town not meeting this requirement, it does reflect negatively on the assessors and is considered a black mark on compliance reports which many assessors do not want to have.

Mr. Thomson, also a member of the ASB, stated from a landowners point of view, many did what was required at the time their land was entered the current use program. Over the years things have changed, more information is required at the time of application, however for those who complied and are requested to in some part reapply is frustrating as a landowner. There is culpability on both sides for having incomplete records. However, the answer is not penalties through legislation but rather education. Mr. Thomson encouraged the DRA to look into providing education.

Chairman Hamilton stated the DRA does provide education as well as assistance to communities to help improve their current use record-keeping and agreed education would be more beneficial than legislation. One other concern is the land use change tax, a 10% tax based on the market value of a property that comes out of current use. If a community does not have good records, it can be difficult to understand what property is in and what property is out of current use. While there is a slightly negative aspect of our report, there is also a monetary impact for communities that we want to recognize as well.

After a brief discussion, it was determined a copy of the Assessment Review Standards would be forwarded to the board for review and this topic would be added to the agenda for the next meeting.

Legislative Update

Mr. O'Connell, representing SPACE, stated there were no LSRs filed specific or relative to current use law. House Bill 114, held over from last year, had to do with abutter access that may or may not have to do with current use.

Election of Chairman

Ms. Francher ***nominated Mr. Hamilton to remain as Chairman of the Current Use Board.*** Ms. Andrews ***seconded the motion.*** No other nominations were made. Chairman Hamilton called the motion. Chairman Hamilton abstained. ***All others approved.***

Ms. Francher ***motioned to adjourn.*** Ms. Andrews ***seconded the motion.***

Chairman Hamilton adjourned the meeting at 11:50 a.m.

Respectfully Submitted, Stephanie Derosier

NH Department of Revenue Administration – Municipal and Property Division

Documentation relative to the Current Use Board may be submitted, requested or reviewed by:

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In person at 109 Pleasant Street, Concord

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Current Use Board

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